

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

GREG FLORES, BRIAN FLORES, SUSAN F.  
HAMILTON, DONALD FLORES, JR., AND  
MARK FLORES

Plaintiffs,

v.

STATE FARM FIRE AND CASUALTY  
COMPANY,

Defendant.

No.: 1:08-CV-471-LTS-RHW

**STATE FARM FIRE AND CASUALTY COMPANY'S  
MOTION TO EXCLUDE PLAINTIFFS' EXPERT GIDDINGS EMERY**

1. State Farm Fire and Casualty Company respectfully submits this motion, pursuant to Federal Rules of Evidence 104(a), 702, 703, and 403, to exclude the testimony of Plaintiffs' expert witness, Giddings Emery. Plaintiffs cannot meet their burden to show that Mr. Emery's opinion and proposed testimony are admissible.

2. As discussed more fully in the accompanying memorandum of law, incorporated herein, Plaintiffs proffer Mr. Emery, an engineer, to testify that wind, rather than water, destroyed their house. Yet, Mr. Emery's report bears none of the indicia of a reliable engineering report. It offers no calculations or physical evidence of any kind to show that wind, rather than water, destroyed Plaintiffs' house. Nor is there any description of the methodology, if any, Mr. Emery used to arrive at his conclusion. He simply declares his willingness to testify in trial that wind destroyed Plaintiffs' house.

3. As discussed more fully in the accompanying memorandum of law, incorporated herein, Plaintiffs cannot show that Mr. Emery's opinion is based on reliable data.

4. As discussed more fully in the accompanying memorandum of law, incorporated herein, Plaintiffs cannot show that Mr. Emery's opinion is based on a reliable methodology.

5. As discussed more fully in the accompanying memorandum of law, incorporated herein, Plaintiffs cannot meet their burden to show that Mr. Emery is qualified to offer expert opinion testimony as to the weather conditions at Plaintiffs' house or the nature of the peril that destroyed their house.

The following exhibits are attached to this Motion and incorporated by reference:

Exhibit A: Deposition of Giddings Emery.

Exhibit B: Report of Giddings Emery.

Exhibit C: Satellite Photographs of Plaintiffs' Neighborhood.

WHEREFORE, for the foregoing reasons and those more fully stated in the accompanying memorandum of law, State Farm respectfully urges this Court to grant this motion and exclude the testimony of Giddings Emery in its entirety.

DATED: April 15, 2010.

Respectfully submitted,

/s/ James H. Heidelberg

JAMES H. HEIDELBERG, MSB # 2212  
HEIDELBERG, STEINBERGER,  
COLMER & BURROW, P.A.  
Attorneys at Law  
711 Delmas Avenue  
Pascagoula, MS 39567-1407  
(228) 762-8021  
*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

I, **JAMES H. HEIDELBERG**, one of the attorneys for the Defendant, **STATE FARM FIRE & CASUALTY COMPANY**, do hereby certify that I have on this date electronically filed the foregoing document with the Clerk of Court using the ECF system which sent notification of such filing to all counsel of record.

DATED: April 15, 2010.

/s/ James H. Heidelberg

JAMES H. HEIDELBERG, MSB # 2212  
HEIDELBERG, STEINBERGER, COLMER  
& BURROW, P.A.

Attorneys at Law  
711 Delmas Avenue  
Pascagoula, MS 39567-1407  
(228) 762-8021  
*Attorneys for Defendant*